

**Application number:** 09/396005

**Art Unit:** 3621

**Applicant:** Khai Hee Kwan

**Examiner:** Evens Augustin

**Title:** Method, apparatus and program to make payment in any currencies through a communication network system using prepaid cards

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

TO: Commissioner for Patents

Virginia 22313-1450

5

AMENDED APPEAL BRIEF

10 ATTEN: Board of Patent Appeals and Interferences

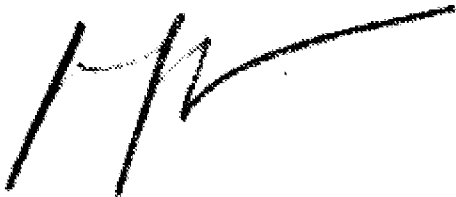
The following brief is submitted in connection to the above-identified application,  
subsequent to the Second Notice of Appeal filed on 24 Dec 2007 following the Final

15 Rejection mailed 9 Oct 2007. This brief is accompanied by the fee US\$ 255.

Thank you.

Yours truly,

20

A handwritten signature in black ink, appearing to be 'H/K' followed by a long horizontal stroke.

25 Appellant/Applicant

023336

21 January, 2008

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REAL PARTY IN INTEREST

5

The real party in interest is the Applicant/Appellant, Khai Hee Kwan.

RELATED APPEALS AND INTERFERENCES

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None

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STATUS OF CLAIMS

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Status of Claims is as per Final Rejection Letter mailed 9 Oct 2007 (hereinafter Action Letter). The examiner states that claims 13,14,34,35,36,39,40,41,48-50 have been amended according to Appellant's submission on 23 July 2007 at page 2 of Action Letter. This is respectfully disagreed. The amendments as filed 23 July 2007 involves Claims 13,14,26,34,35,36,39,40,41,44-46 and 48-52. The examiner also states that claims 13-  
25 14,26, 33-36, 38-46 and 48-52 are pending. This is also respectfully disagreed. Claims pending as filed July 23 2007 are listed as  
13,14,26,33,34,35,36,38,39,40,41,43,44,45,46,48,49,50,51,52. A copy of said claims are contained in the APPENDIX .

30

STATUS OF AMENDMENTS

No amendment has been filed subsequent to final rejection.

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### SUMMARY OF THE CLAIMED SUBJECT MATTER

5 This invention was filed Sept 13, 1999 and claims foreign application claiming priority based on an earlier filing date Aug 11, 1999 in Australia.

#### A. Claim 13 – Independent Method

10 The present invention features a computerized network method for allowing payer to credit funds to a payee (page 19, lines 13-18 and page 21 line 15 of Specification) using funds previously deposited from a prepaid card (page 10 line 4-10 and page 19 lines 7-12 of Specification) using the internet (page 7 line 1 4-5 of Specification) as the network. The process is instantaneous (page 3 line 15 of Specification). The payer has to provide his account identifier, password, amount and the payee's account identifier (page 21, line 15 8-15 of Specification). The account's identifier are user created. ( See Original Claim 3 of the Specification –“...otherwise will ask the user to set up an account as an alternative option;”). The funds are transferred without interacting with said payee and independently of said prepaid card (using double entry method-See page 19, lines 13-18 of specification).

20 Claims 34,39 are independent claims representing different classes to claim 13.

#### B. Claim 48 – Independent Method

25 The present invention features a computerized method that transfer funds which are deposited without using said payer's bank account (See Page 5 line 4-6 and page 18 line 14 of specification). The transferred is between two different individuals having user created account identifier (See Original Claim 3 where user is given the option to create his own account) being different from source of funds. (See Page 19 lines 7-12 of 30 Specification – using a prepaid card) The transfer requires said account identifier to be submitted for verification (page 21, 8-15 of Specification) and said transfer is

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instantaneously (See Page 3 line 15 of Specification) without interacting with source of funds and payee (using double entry method See Page 19, lines 13-18 of specification).

Claims 49 is independent system claim of the same in Claim 48.

### GROUND OF REJECTION TO BE REVIEWED ON APPEAL

- A. Whether the examiner's response to arguments at page 2-4 of Action Letter is sustainable ?
- B. Whether the examiner's "Claim Interpretation" at page 4 to 7 of Action Letter is sustainable ?
- C. Whether the examiner's Claim rejection under 35 USC 112 (1<sup>st</sup> Para) at page 7 to 8 of Action Letter is sustainable ?
- D. Whether the examiner's Claim rejection under 35 USC 112 (2<sup>nd</sup> Para) at page 8 of Action Letter is sustainable ?
- E. Whether the examiner's Claim rejection under 35 USC 102(e) as being anticipated by Katz et al (US 6424706) is sustainable ?

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### ARGUMENT

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A. Whether the examiner's response to arguments at page 2-4 of Action Letter is sustainable ?

10 The appellant/applicant respectfully submits they are not sustainable for the reason the examiner used a Prior Art by Bowman-Amuach et al. This prior art is unknown to the appellant/applicant in the previous Action Letter and the applicant did not even responded to this prior art. The appellant suspect this was included in this Action Letter by accident. Therefore, the examiner's response should be dismissed.

15

B. Whether the examiner's "Claim Interpretation" at page 4 to 7 of Action Letter is sustainable ?

20 Note: As a preliminary issue, it should be stated here that the appellant had submitted this "Claim Interpretation" in the 22 July 2007 response which follows the Action Letter dated 21 May 2007. In fact this "Claim Interpretation" is exactly the same as in 21 May 2007 Action Letter. In the 22 July 2007 submission, the applicant has already addressed the issues including amendments which the examiner had stated to have been  
25 incorporated.

30 Firstly, to construe a claim element, its plain meaning is ascertained from the intrinsic record of the claims, the specification, and the prosecution history. Office personnel must rely on applicant's disclosure to properly determine the meaning of the terms used in the claims. See *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 980, 34 USPQ2d 1321, 1330 (Fed. Cir. 1995). "[I]nterpreting what is meant by a word in a claim 'is not to be confused with adding an extraneous limitation appearing in the specification, which is

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improper.” In re Cruciferous Sprout Litigation, 301 F.3d 1343, 1348, 64 USPQ2d 1202, 1205, (Fed. Cir. 2002) (emphasis in original) (citing Intervet Am., Inc. v. Kee-Vet Labs., Inc., 887 F.2d 1050, 1053, 12 USPQ2d 1474, 1476 (Fed.Cir.1989)) Extrinsic evidence, like dictionaries and treatises, is secondary, and expert testimony may be tertiary. This means that the words of the claim must be given their plain meaning unless applicant has provided a clear definition in the specification. In re Zletz, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) See also In re Marosi, 710 F.2d 799, 218 USPQ 289 (Fed. Cir. 1983) ("Claims are not to be read in a vacuum, and limitations therein are to be interpreted in light of the specification in giving them their 'broadest reasonable interpretation'." 710 F.2d at 802, 218 USPQ at 292.

At Item B at page 4 of Action Letter, the examiner provided the issue of using the word “for” in regards to Claim 34. Without admitting the examiner’s assertion, the applicant has amended Claim 34 which is now without “for” in the 22 July 2007 response.

Therefore, this issue should not be found in the Final Action Letter.

At Item D at page 5 of Action Letter, the examiner stated “a database to transfer stored funds in claim 13 is being interpreted as a database having the ability to transfer stored, and not a database containing stored funds” (underlined mine). The applicant

respectfully disagrees with the examiner’s interpretation as the examiner provided nothing on record or by notice to reach such conclusion. Furthermore, it is clearly stated in the specification that the database containing stored funds (for example see page 19 line 12-15 of specification) which is well within the understanding of one ordinarily skilled in the art. For example, in the banking art which uses a database to store funds for customers’ accounts. (See US PATENT 5659165)

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At item E and F of Action Letter page 5, the examiner provided In re Johnston, 77 USPQ2d 1788 (Fed Cir 2006) to give less patentable weight to the word “IF”. The applicant respectfully disagrees. In re Johnston , it does not support a per se rule of interpreting "if" or "when" as identifying an optional limitation. In re Johnston, it simply  
5 stands for the unremarkable proposition that if an element is optional, it need be given no weight. In the actual claim as In re Johnston, the word "may" was used. Clearly as provided in MPEP 2144.04, there is no reason to conclude the facts in re Johnson is similar here.

An apparatus that has an element that makes a CONDITIONAL response to some  
10 stimulus is not an optional element. Similarly a method/process step that executes a conditioned response to an input is not optional. In this respect the examiner has failed to show this is an optional limitation and furthermore, the suggested interpretation does not make sense and is not in line with the applicant’s specification.

Furthermore, even in the prior art submitted by the examiner (ie US Patent 6424706 by  
15 Katz at Claim 1), it clearly shows “...;IF transfer of said unit minute.....” which is clearly accepted.

However for the sake of expediting this examination, the applicant has amended the “if” to “upon determining” where applicable but without admission the correctness of the examiner’s remarks in the 22 July 2007 response. Therefore, there is NO ‘if’ in the  
20 current claims then this issue should not be raised again in the final rejection.

At item I page 6 of Action Letter, the examiner states that since the word “database” is not lexicographically defined the USPTO will interpret the word accordance to Computer Dictionary. The applicant agrees that the word “database” is not defined in the  
25 specification but its usage is consistent with what is known in the art. However, does this mean one skilled in the art is not able to discern its plain meaning from the intrinsic

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record of the specification, and the prosecution history to date ? Office personnel must rely on applicant's disclosure to properly determine the meaning of the terms used in the claims. *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 980, 34 USPQ2d 1321, 1330 (Fed. Cir. 1995). "[I]nterpreting what is meant by a word in a claim 'is not to be  
5 confused with adding an extraneous limitation appearing in the specification, which is improper.'"

The examiner merely concluded that the applicant has not fully disclosed how a database is to transfer stored funds at the end, perhaps as a reason for wishing to interpret "database" ? ( Page 6 of Action Letter). With respect, there are TWO distinctive points  
10 here, ie definition of database and HOW a database is to transfer stored funds. It is submitted there is no reason to link the failure to show transferring stored funds (which is denied) to interpreting the meaning of 'database'.

The appellant further submits that how a database is to transfer stored funds is found in page 19 line 12-15 (specification) specifically using a debit and credit process well  
15 known in the accounting art. In practice the actual debit/credit is written via SQL, a well known language for database programmers.

As for Item J of page 6 of Action Letter, without conceding, the applicant had amended "concerning" to be "related" to be consistent with other relationship in Claims 26,36,41  
20 in the 22 July 2007 response and therefore this issue should not be raised in the final rejection.



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C. Whether the examiner's Claim rejection under 35 USC 112 (1<sup>st</sup> Para) at page 7 to 8 of Action Letter is sustainable ? ('enablement requirement')

5 This rejection is based on Claims 13,39 where the examiner concluded that as 'database' was not defined in the specification then the interpretation will be in accordance to Computer Dictionary. And because this dictionary's interpretation does not show 'transfer stored funds' then rejection is valid.

10 Referring to Para 6 at page 7 of Action Letter, the examiner asserts that the applicant has not fully disclosed in the specification how a database in Claim 13,39 is to transfer stored funds to enable one skilled in the art to use the invention. It should be noted that the examiner did not reason why one skilled in the art of database programming and accounting will not be able to transfer funds stored in one account to another which the  
15 applicant submits is well within their knowledge. Obviously the examiner also did not define what skill is included in this ordinarily skilled artisan. This would be required first.

As mentioned, the relevant knowledge is discussed in page 19 line 12-15 of the specification which combined with programming skills in SQL and double entry will sufficient, unless the examiner could reason otherwise. Even the prior art (Katz) in this  
20 action letter uses 2 databases to account for its customer's telecommunication units (not funds) which are then transfer from one account to another. Furthermore, the applicant respectfully submits even the dictionary interpretation also includes "other functions" whereby the examiner fail to show these other functions do not include transfer in view of one skilled in the art of database programming. Finally, the applicant respectfully submit  
25 that all dependent claims could not be rejected as well based on the same reason above, ie that examiner failed to argue from the vantage point of one skilled in the art by NOT defining the skilled of this artisan.

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D. Whether the examiner's Claim rejection under 35 USC 112 (2<sup>nd</sup> Para) at page 8 of Action Letter is sustainable ? (indefinite requirement)

5

Firstly the term 'R is a factor concerning flexibility in currency stored' has already been amended in 22 July 2007 submission to by substitution the word 'concerning' to 'related' hence there is no issue here. The examiner also states that the stored value equation is found to fail the metes and bounds of the claims but no example is provided. In fact, flexibility refers to asking whether the user wish to store in local or foreign currency, if it is local then use variable '1' else the currency factor/exchange. It is also necessary to reason from one ordinary skilled in the art that such claimed language in light of the supporting specification would not be able to ascertain with a reasonable degree of precision and particularity the particular area set out and circumscribed by the claims. (Ex parte Wu, 10 USPQ 2d 2031, 2033( BPAI 1989)). The appellant respectfully submits the examiner had not discharge this initial burden.

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E. Whether the examiner's Claim rejection under 35 USC 102(e) as being anticipated by Katz et al (US 6424706) is sustainable ?

20

The current legal standard on anticipation can be stated as follows: "Anticipation under 35 USC 102 requires the disclosure in a single piece of prior art each and every limitation of a claimed invention " Apple Computer, Inc V Articulate Sys., Inc 234F.3d 14,20 (Fed Cir 2000) To anticipate a claim, a prior art reference must disclose every limitation of the claimed invention, either explicitly or inherently. See Glaxo Inc. v. Novopharm Ltd., 52 F.3d 1043, 1047, 34 USPQ2d 1565, 1567 (Fed. Cir. 1995). Anticipation is an issue of fact, see In re Graves, 69 F.3d 1147, 1141, 36 USPQ2d 1697, 1700 (Fed. Cir. 1995); Diversitech Corp. v. Century Steps, Inc., 850 F.2d 675, 677, 7 USPQ2d 1315, 1317 (Fed.

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Cir. 1988), and the question whether a claim limitation is inherent in a prior art reference is a factual issue on which evidence may be introduced, see Continental Can Co. USA v. Monsanto Co., 948 F.2d 1264, 1268, 20 USPQ2d 1746, 1749 (Fed. Cir. 1991). An element may be inherently disclosed by prior art if "the prior art necessarily functions in accordance with the limitations" of the challenged claim. *King*, 801 F.2d at 1326; *see also Standard Havens Prods., Inc. v. Gencor Indus., Inc.*, 953 F.2d 1360, 1369 (Fed.Cir.1991), *cert. denied*, 506 U.S. 817, 113 S.Ct. 60, 121 L.Ed.2d 28 (1992). However inherency cannot be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient. (In re Oelrich, 666 F.2d 578,581,212 USPQ 323,326 (CCPA 1981) (quoting *Hansgirk V Kemmer*, 102 F.2d 212, 214, 40 USPQ 665,667 (CCPA 1939)) (emphasis added). Thus, inherency permits in limited circumstances, an invention to be anticipated by prior art that is lacking minor but well known features or functions as seen by one skilled in the art.

Claim rejection under 35 USC 102(e).

The examiner provided the prior art by Katz ( US Patent 6424706) which relates to telecommunication-time (unit-minute) made transferable between subscribers and subscribers or non-subscribers. See abstract which states "A system and method for accessing the value associated with a pre-purchased amount of telecommunication-time for making telephone calls and for uses other than making telephone calls is provided".

There is no mentioned by Katz of transferring "stored funds". The examiner fails to show telecommunication-time (unit-minute) is inherently found to be FUNDS to one skilled in the art of telecommunication. The applicant submits there is a clear division alluding to this given Katz teaches having to convert the unit-minute to funds at a redemption office

202 or bank 221. If FUNDS are the same as unit-minute then why is there a need to convert ?

It is also pertinent to note that Katz uses a prepaid CALLING card and not a prepaid card, the difference here is that a prepaid calling card is for making telephone calls while a  
5 prepaid card is to make purchases. There is nothing in the applicant's specification dealing with telecommunication which enable one skilled in the art to read a prepaid CASH card as a prepaid calling card and hence it would not be reasonable to read into the claims.

10 Even if a prepaid card can be used to make a telephone call (ie as a calling card), it does not mean a prepaid calling card in Katz could be used for purchases unless it is first converted to unit-minute and then converted to funds at office 202 or bank 221, a two stages process. In fact this is the essence of Katz's invention which is to make use of unused prepaid unit-minutes for purchases or other services other than making a phone  
15 call but this is not the same as saying a prepaid calling card can be used as funds directly.

Even if prepaid card is broad enough to include prepaid calling card (which is denied), the fact is that in this claimed invention at claim 13,34,39 the key element is "said stored funds is deposited from a prepaid card" and as submitted above, a prepaid calling card in  
20 Katz is not capable of depositing funds as it could only provide unit-minutes for telecommunication. In Katz, funds are only recognized when unit-minutes leave the system and enter into some financial network or at the redemption office and not at the time of depositing.

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Claim 13,34,39

The following Table A summarized the main differences between Katz and the claimed invention 13,34,39.

Items	Claimed Elements	Katz	Comments
1	a host server having a database to transfer stored funds (preamble)	uses a computer 343 having its own database 344 and a prepaid telco computer 172 also having its own database 173 of prepaid minute accounts stored. (See Fig 3A)	Katz's requires its unit-minute system 340 to <u>interface</u> with prepaid platform 170 each having their own computer cum databases. This means it needs 2 host servers (343,172) and 2 databases (173, 344).
2	said stored funds is deposited from a prepaid card <u>into an account linked to an user created identifier</u>	prepaid calling card or credit card or bank account are used to deposit	Katz's cards can only depositing unit-minutes not <u>funds</u> . Credit cards/bank accounts are used to buy unit-minutes. No mentioned of user created identifier.

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3	said transfer is made without interacting with said payee	In a preferred embodiment, after unit-minute transactions are completed, the system <u>notifies</u> both parties of the success of the transaction, and provides a unique transaction identifier that can be used for future reference and validation.  (Col 8 line 48-50)	Since Katz has to provide an unique transaction identifier then there must be communication (ie interaction)
4	independently of said prepaid card	using a smart card adapter in association with wireless device or PDA ( Col 21, line 50-55)	using the prepaid card as a store value which is contrary to storing funds in database
5	upon authenticating the payee's account identifier, instantly crediting the fund to the payee's account upon determining balance in the database associated with the payer account identifier and password is more than the fund	Examiner provided Item F in page 10 of Action Letter.	No <u>instantly</u> crediting funds. As mentioned Katz deals with unit-minute, there is a need to convert and then to transfer to banking institutions etc.

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	for transfer;		
6	<u>instantly</u> debiting the balance associated with the payer's account identifier and password in the database with said fund transferred to said payee's account;	No mentioned by Katz or Examiner	No instantly.

Discussion on Item 1 of Table A

The examiner provided item A and C at page 9 and 10 of Action Letter.

- 5 Fig 3A of Katz provides the entire system interconnection to satisfy a transfer of unit-minutes and linking to a financial network 223 and 365 to complete the conversion to funds (two stage process). As noted, Katz provides United Minute System (UMS) 340 which is adapted to interface with prepaid platform 170. As taught by Katz the 'transfer' is done as explained at col 9 line 5 to line 25 and the applicant quotes "For instance, in a preferred embodiment, the present invention leverages existing prepaid minute accounts stored within a prepaid telephone platform, rather than replacing them with the invention's own minute accounts. Therefore, in order to perform the necessary unit-minute transactions, the unit-minute system must have read and write access to these accounts, and a converter for converting the existing prepaid minutes of the prepaid
- 10 platform to the unit-minutes of the invention. Furthermore, any changes to data fields of
- 15

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the prepaid platform's minute account that are accessed by both the prepaid platform and unit-minute system must be made using a method that guarantees transactional integrity. Such access may be accomplished by integrating the transaction processing subsystem of the unit-minute system's computer system with the transaction processing subsystem of the prepaid platform by an adapter. Each system's transaction processing subsystem will in turn communicate with its respective database as needed to update any changed fields. Once the two systems are integrated in such a fashion, changes made by either system to such shared fields will be communicated to both systems in a transactionally safe and reliable fashion."

10

From this teaching (Fig 3A) it is shown more than one host (UMS 340 and Prepaid Platform 170) and more than one database (173 and 344) are needed to effect a transfer of unit-minutes. Therefore at the material time of any 'transfer' it is NOT funds that is being transferred. It is also clear that by itself UMS 340 by itself cannot transfer any unit-minute as it depends on prepaid minutes from another database 173 (telco) to synchronize to its own database 344. This "interface" is said to be an advantage of the Katz's system having its own database as able to leverage (something like piggy-back) on the prepaid telco database instead of using one database as claimed. The question is whether Katz's teaching of a need to interface between the Telco database (173) and Katz database (344) meets the claimed invention ? In short, can Katz's invention works when there is no Telco database to interface with ? The answer is clearly NO. The claimed limitation in this invention has no interface between two databases from two different host servers belonging to two different entities. There is not even a telco database as claimed. Even if there are more than ONE host server and hence more than ONE database, they are not 'interfacing' two separate entities (ie telco and Katz's UMS). Note that technically, claim 13 and 39 only recited "a" (read as ONE) host server in the preamble (ie before 'comprising') so strictly speaking, the limitation here is for ONE host server as opposed to Katz (UMS 340 and Prepaid Platform 170) in Fig 3A.

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Discussion on Item 2 of Table A

Katz teaches using a prepaid calling card to deposit unit-minutes or a credit card ( col 6 line 33) or bank account (col 6 line 44). However, these facilities do not deposit funds rather they are deposited as prepaid minutes in the prepaid platform 173 and unit-minutes  
5 in the database 344 of UMS 340 ( See Fig 3A). Funds from these facilities are used to purchase unit-minutes but it does not necessarily shows depositing funds. It is well known that a telco must uses unit-minutes as a measurement of its service system. The main function of a telecommunication service provider is to provide telecommunication services and therefore its unit of measurement must be in minutes and not funds. Katz's  
10 invention is to adapt any unused unit-minutes to do something else other than making a phone call without modifying the function of a telco in contrast with this invention where it is designed to transfer funds deposited by a prepaid card.

The examiner provided at item G page 10 “The account is which funds are being  
15 transferred from is prepaid stored value account” and supported this by col 4, line 42 which also states “..such as telephone call minute accounts containing telecommunication-time units, over a network is provided”. The examiner provided no reasoning to show how one skilled in the art of telecommunication must inherently see call minutes accounts containing telecommunication-time units must necessarily be  
20 stored funds. It is submitted that because the examiner fails to show that a prepaid stored value account must necessary store funds in a telecommunication service provider, inherency is not found. Furthermore, if funds is stored instead of telecommunication-time units, then this would contradict the example given by Katz for the need to convert to funds through the financial network (‘conversion’).

The examiner also failed to show “into an account linked to an user created identifier”. It is clear that the subscriber in Katz is given a telephone number as the identifier ( Katz Col

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7 line 6). It is submitted it is not known that this telephone number is an user created identifier in the telecommunication art.

Discussion on Item 3 of Table A

5

As mentioned in Katz because the first stage of the transfer concerns unit-minutes, then it is necessary to redeem to money/funds. Katz clearly provides “transfer” to mean transferring of unit-minutes. For example, at Col 21, line 9-10, it is written “ Given the ability to transfer and redeem unit-minutes...”.

10

In reference to “said transfer is made without interacting with said payee” this is not meet by Katz as it is shown after a payer has transferred his unit-minute then the payee has to be notified (unique identifier) to redeem the converted unit-minutes using said unique identifier (Col 8 line 47-51) . This notification of said identifier for that transaction which  
15 requires interacting with a party obviously does not meet this claimed invention’s element in item 3. If the payee is not a subscriber, then payer will have to inform them directly (col 19, line 34-40).

20

The examiner in reply only shows “ The prior art invention makes an electronic funds transfer “ and provided col 8, lines 63-64. (See item H at page 9) The evidence only shows Katz’s invention is connected to financial networks such as ATM/POS, FedWire and CHIPS which is capable of making an electronic funds transfer but there is no evidence here to show without interacting with payee. In fact, these networks as shown ATM/POS (233) and Intrabank network (365) in Fig 3B would require some interaction

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between the different member banks of the network which collectively are payers and payees on behalf of their customers such as in ACH or through SWIFT.

The examiner concluded by stating “therefore the actual transfer is made without any user  
5 interaction and regardless of the origination of source funds”. The applicant considers this  
conclusion to be limited to the financial network as opposed to Katz’s telecommunication  
network which is not capable of transferring funds in view to “actual transfer” to denote  
transfer of funds. If this is the case then it should also be noted this claimed invention  
requires such transfer to be made “INSTANTLY” by crediting and debiting the  
10 nominated accounts. It is well known that ACH/SWIFT/CHIPS (collectively financial  
network) is an overnight batch process (Col 10 line 10-15). The word “daily” would  
appear to be longer than instantly.

If the applicant is wrong (which is denied) and actual transfer is referencing transfer of  
15 unit-minutes then it is clear Katz teaches interacting with payee as above (providing  
reference to redeem –see Col 8 line 47-51) and as argued transferring unit-minutes does  
not meet the requirement for transfer of funds in view of one skilled in the art of  
telecommunication.

20 As for redemption, even if these financial networks managed to avoid interacting with the  
final payee during the inter-bank transfer (ACH/SWIFT/CHIPS networks), it is crystal  
clear that whenever there is a redemption it must necessary involve interacting with the  
payee since by definition, a redemption is an act done by said payee (For example see Fig  
5A at BOX 504 providing redemption password to employee wherein password was from  
25 sender BOX 503). In Fig 6 where a subscriber is redeeming his own unit-minute (ie

making himself both as payer and payee) via the financial network then it clearly shows him interacting by firstly inserting his ATM card.

Even if the applicant is wrong above (which is denied), the logical conclusion is that the  
5 examiner's sole reliance on these financial networks to show there is no interaction is  
selective reasoning as it ignores Katz's collective teaching. As mentioned by Katz, these  
financial networks interfaced with his telecommunication entities (not isolated) and his  
UMC to allow the redemption part of the process since cash is needed. There could not be  
ANY transfer within the financial network had it not been the initial unit-minutes transfer  
10 first which in-between interacted by sending out notification (see col 8 line 48-50) and in  
order to convert them, said financial networks were chosen to cover the redemption of its  
unit-minutes. It is also undisputed that there is also interaction during redemption phase  
by the payee and a need to interface with telco's computer/database. So in totality, Katz  
taught interaction and hence it is flawed to select only the financial network (which is  
15 part of the overall network) to reveal without interacting. Even if this could stand, such  
financial network (say ACH) is not able to satisfy the "instantly" element in effecting a  
transfer. Hence, either way it is clear if "transfer is made without interacting with said  
payee" and "funds" are met using the financial network alone, then "instantly" is not. On  
the other hand, if "instantly" is met by using Katz's telecommunication database, then  
20 "transfer is made without interacting with said payee" and "funds" are not met.

Discussion on Item 5 & 6 of Table A

In the claimed invention, the funds need to debit/credit funds instantly and it is clear from  
the forgoing discussion this is not found in Katz. In fact, Katz merely transfer the unit-  
25 minutes follow by notification to the payee which is then followed by redemption through  
the financial network. This could not be instantly done to reach the stage of FUNDS.

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In conclusion, given the above items 1,2,3,5,6 are not found in Katz and contradicts item 4 (where a smart card is used), the applicant respectfully submits anticipation under 102(e) is not satisfied and the claims should be allowed.

5     Claims 14, 35,40

These claims deal with storing and linking card amount to an user account identifier. The examiner only made mentioned of “whereby upon completion of storing and linking said prepaid card is valueless” as page 11 item I. The examiner provided col 2 lines 25-26,  
10     which provides “First, subscriber 100 inputs their unique subscriber ID, which in the case of long distance prepaid systems is typically a temporary identifier, printed on the card itself and good until all of the minutes associated with the card are used up.”

Understandably this evidence is referring to long distance prepaid cards and the identifier  
15     is good until all minutes associated with the card is used up which the applicant does not dispute. However, how is this connected to storing and linking card amount to an user account identifier which by the way is NOT a temporary identifier ? In this claimed invention, a prepaid card having an amount and identifier is stored and linked to an user account identifier which on completion, the said card is valueless and not by using up the  
20     minutes associated in long distance calls. Is there is a difference between using up the funds in a prepaid card rendering the card valueless (examiner’s suggestion) to storing and linking those funds to an user account identifier as claimed thereby rendering said card valueless. The user also has to create his own identifier in the process which obviously has to be permanent to distinguish the identifier on the card.

25

Furthermore, the amount in this claimed invention is stored by calculating its face amount and linking it to user created identifier (NOT card identifier). At the end the stored

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amount is still available but only through the user identifier and NOT card identifier.

Hence, the card is valueless. The applicant respectfully submits Katz fails to teach this and hence the claims should be allowed.

- 5 No other rejections of the other elements in claims 14,35,40 were made by the examiner. To anticipate ALL elements in the claims must be shown by the examiner which is not performed in this instance and the applicant could only conclude this failure by the examiner must mean the other elements are not found in Katz and hence 102(e) is not made out.

10

Claims 26, 36,41

- 15 These claims deal with the calculation of the stored value to be provided. The examiner provided Katz teaching in part when unit-minutes are transfer to another in a different country which is later redeemed in said different currency (See Item J in page 11 of action letter). In order words, the examiner wish the applicant to recognize that by showing that currency exchange is found in Katz, the prima facie anticipating the formula
- 20 in claims 26,36,41 is made. No doubt currency exchange is an old art even without Katz but that does not mean the other elements in the formula are found in Katz or is known either. For example, storage period ? The examiner provided no rejection to the other elements and hence 102(e) is not made out. The appellant respectfully ask these claims to be allowed.

25

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Claims 33,38,43

These claims state the payer is unknown to said host server. At first glance the applicant is unable to decipher whether the examiner has provided any rejection for this element.

5 On second glance, the examiner noted in item B at page 9 with the words “ since the system only asks payer to enter ID and password, password true identity ( name, address and birth date) is not known to the system in response to “prompting payer to input payer’s account identifier and password” element found in Claim 13,34,39.

10 With respect, this type of rejection is unclear and it appears to be a conclusion in reading col 17, lines 50-51 in Katz which states “If the caller ID information is not available in decision 402, a step 403 prompts the caller to input their subscriber ID and PIN.”

By way of a background, a telephony system usually provides caller ID on demand  
15 (appears on the telephone LCD ) when caller ID is used but obviously this caller ID would not be available when the user provides a computer to access the system or any device that does not go through telephone exchange able to transmit this caller ID. That is the reason for Katz to teach asking for subscriber ID and PIN. However, does this mean by asking subscriber ID and PIN, the subscriber is unknown to the host server ? Note that  
20 subscriber ID is denoted as telephone number ( Col 7 line 6). This is tantamount to saying the telephony operator has no record of its customers which is difficult to believe.

The applicant would respectfully argued that since Katz uses a system that is integrated to prepaid telephony platform and have access to its database 173 ( See Col 9 line 5 to line  
25 25 and Fig 3A) and hence these subscribers in said database 344 are subscribers to said telephony platform 170, it is very unlikely these subscribers are unknown to the telephony service provider 170. The fact that a service is prepaid does not mean the

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telephone company does not ask for identification when opening an telephone account, nor is this a known practice.

Even non-subscribers will be allocated a temporary subscriber ID for a specific  
5 transaction. ( See Col 7 line 29). Furthermore, when it comes to redeeming its unit-minute, Katz teach of the option of sending it to a bank account ( Col 8 line 1-5) for payee. Surely, at this stage the UMS 340 must know to whom the money must be credited to based on the bank account information, As far as ACH is concerned, the bank account must tally with the name of payer/payee or the transaction will fail. Therefore,  
10 the applicant respectfully submits that unless there is clear evidence to support the examiner's conclusion that a telco's database or its sidekick Katz database are inept in identifying its customers, then these claims must be allowed.

15 Claims 44,45,46

These claims deals with issuance of a receipt representative a prepaid card having at least a serial number by a POS connected to said server. To clarify, these claims are directed to a user purchasing a prepaid card at POS and which also issues a receipt representative of  
20 said prepaid card. User therefore receives a receipt plus a prepaid card. This is in case the user lost the prepaid card, he could still use it by referring to the receipt which bears a serial number connected to said prepaid card to cancel the card if the amount is still 'floating' (ie before storing it).



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The examiner provided Item K & L at page 11 to show anticipation. The evidence in Katz as suggested by the examiner to be found at Col 7, lines 63, col 8 lines 2 and 15 and col 19 lines 17-24.

- 5 To restate these evidence, the applicant quotes the whole paragraph encompassing col 7, line 63 to col 8 line 15 for completeness as follows: "In a preferred embodiment, the system and method of the invention also provides a method for subscribers to access their "minute account" from any ATM or retail point-of-sale, POS terminal. In this method, the subscriber is issued a debit card associated with their prepaid minute account. This debit
- 10 card is configured and functions in the same manner as traditional checking account based debit cards, except that in this case, withdrawals trigger a reduction of unit-minutes equivalent to the value of withdrawal. Integration between the system and POS/ATM networks requires that the system and its associated corporate owner become a member bank within the financial network. Membership typically entails meeting certain network
- 15 guidelines concerning credit worthiness and financial liquidity. In addition such memberships usually entail that the member becomes a governmentally registered and regulated bank. In an embodiment where a non-financial network member implements the invention, it may be advantageous to partner with an existing financial network member. In this method of integration, the system's financial network interface would
- 20 interface with the backend computer systems of the financial partner instead of directly with the financial networks."

- The applicant respectfully submits that the above only shows POS being accessed by a debit card to check minute account. There is nothing to show printing a receipt
- 25 representative of a prepaid card.

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As for Col 19 lines 17-24, this is stated as follows: “Once this has been determined, UMACH 370 will send a message via UMACH TP interface 371 to bank computer system 377 requesting that it issue appropriate payment requests, via interbank financial network 365, to all members who owe unit-minutes to UMACH 370 network. This  
5 payment request is in the form of the currency equivalent of the owed unit-minutes and is directed to be made to a UMACH settlement account 385.”

The examiner also reasoned “ Sending receipt to both the sender and receiver. This message may be sent in a number of formats.....facsimile message (Print) or text....,  
10 containing account/transaction ID”

It is clear the examiner is merely trying to combine two different stages in Katz, the first being to access minute account using a POS and the second UMACH performing a reconciliation between members’ unit minute accounts (similar to ACH) in sending  
15 receipts. But the claimed invention also requires “...receipt representative of the prepaid card having at least a serial number” which is not found in Katz. It is clear the receipt in Katz contains “account/transaction ID” for a past transaction while this claimed receipt represents at least a serial number of the prepaid card. As mentioned, the purchase of a prepaid card is used to load money into the system, hence a receipt is issued when a  
20 prepaid card is purchased (prior to any loading or transfer). Therefore in contrast to “account/transaction ID” of a past transfer of funds in Katz, the claimed receipt merely represents details of the prepaid card in anticipation of a future transaction which is not taught by Katz.

25 The applicant respectfully ask the claims to be allowed.

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**Claims 48,49**

5 The examiner provided no mention directly to the elements found in both claimed invention.

In particularly, these are addition elements over claim 13,34,39 includes :

- A. ...having a payer created identifier different from source of funds;
- 10 B ....stored funds deposited without using a bank account;
- C ....whereby payer and payee are two different persons.

As for A, the applicant submits that Katz fails to show this as the subscriber identifier is a phone number ( Col 7 line 6) could not be created by subscriber himself.

15

As for B, the applicant submits that Katz teaches depositing using a bank account ( Col 13 line 52, Col 15 line 55- Col 16 line 30). Katz also provides using a credit card to purchase prepaid minutes. And even if all kind of funding facilities could be used including a prepaid calling card, one still must remember Katz teaches a telephony  
20 platform which must necessarily means its value must be stored as prepaid minutes and NOT stored funds.

As for C, Katz also teach subscriber redeeming the unit-minutes himself which means it could be the same payer and payee even though in general the applicant concedes, the  
25 payer subscriber and payee subscriber should be different persons.

Hence as far as A and B are concerned, the applicant submits Katz fails to show the elements and hence 102(e) was not made out by the examiner. As mentioned previously,

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the examiner also failed to address the issue of payer created identifier different from the source of funds. For the same reasons, these claims should be in allowance.

5    **Claims 50,51,52**

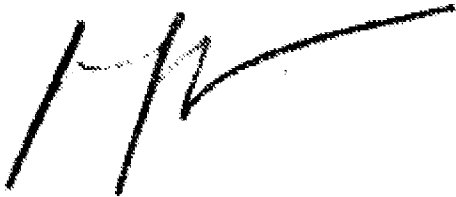
The examiner provided no mention of this based on the amendment in 22 July 2007.

Obviously Katz fails to show this as it teaches a prepaid calling card to make telephone calls. It is also well known that a credit or debit cards are NOT cash card. Similarly, the

10    applicant respectfully ask these claims to be allowed.

Much Obligated,

15

A handwritten signature in black ink, appearing to be 'Khai Kwan', with a stylized, sweeping flourish extending to the right.

Khai Kwan

20    Appellant/Applicant

25

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Appendix

Text of Claims as per this Appeal.

5

13. In an Internet system having a plurality of computers connected by a network, a user to user payment method executable at a host server having a database to transfer stored funds in any currencies over a network under payer's control, comprising:

10   prompting payer to input payer's account identifier and password;

authenticating the payer's account identifier and password for validity;

prompting the payer to input payee's account identifier and fund transfer information;

15

receiving said payee's account identifier and said fund transfer information;

upon authenticating the payee's account identifier, instantly crediting the fund to the payee's account upon determining balance in the database associated with the payer

20   account identifier and password is more than the fund for transfer;

instantly debiting the balance associated with the payer's account identifier and password in the database with said fund transferred to said payee's account;

25   whereby said stored fund is deposited from a prepaid card into an account linked to an user created identifier; and

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whereby said transfer is made without interacting with said payee and independently of said prepaid card.

- 5     14. The method of Claim 13 includes a step of storing and linking prepaid card amount to an user account identifier in the host server over a network comprising:

prompting user to enter security code associated with the prepaid card;

- 10    receiving the security code;

determining the security code is valid;

determining any account **identifier** is associated with the security code;

15

upon determining there is no account identifier associated with said code then prompt said user to enter an user account identifier, password, storage period and currency to be stored;

- 20    receiving said user account identifier, password, storage period and currency as inputted by said user;

determining said user account identifier and password for uniqueness against other stored user account identifiers and passwords;

25

calculating stored value;

output the stored value to said user;

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upon determining said user account identifier, password combination is unique and the stored value is acceptable to said user then add said account identifier and password into database linked with the stored value amount;

5

upon determining said user account identifier, password combination is not unique and stored value is acceptable to said user then linked the stored value amount to said existing user account identifier and password in the database; and

10 whereby upon completion of storing and linking said prepaid card is valueless.

26. The method according to Claim 14, wherein calculation of the stored value is based at least in part on the formula below;

15

Stored value =  $B * D * L * C * R$

Where B is face value of the prepaid card or floating balance whichever is less, D is a factor related to storage period, L is a factor related to value and loyalty of customer that  
20 is based on his/her past purchases of pre-paid cards, C is a factor related to cost of money and R is a factor related to flexibility in currency stored.

33. The method according to Claim 13 whereby said payer is unknown to said host server

.

25 34. An Internet system for user to user fund transfer over a network comprising:

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a host server having a database to transfer stored funds in any currencies under payer's control, wherein said server having a processor to execute program codes stored in a computer storage medium; and , wherein the program codes, further comprises:

5 code to prompt payer to input payer's account identifier and password;

code to authenticate the payer's account identifier and password for validity;

code to prompt the payer to input payee's account identifier and fund transfer

10 information;

code to receiving said payee's account identifier and said fund transfer information;

code to authenticate the payee's account identifier and upon authentication, instantly

15 crediting the fund to the payee's account upon determining balance in the database associated with the payer account identifier and password is more than the fund for transfer;

code to instantly debiting the balance associated with the payer's account identifier and

20 password in the database with said fund transferred to said payee's account;

whereby said stored fund is deposited from a prepaid card into an account linked to an user created identifier; and

25 whereby said transfer is made without interacting with said payee and independently of said prepaid card.



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35. The system of claim 34 wherein program code further comprising:

code to prompt user to enter security code associated with the prepaid card;

5 code to receive the security code;

code to determine the security code is valid;

code to determine any account identifier is associated with the security code;

10

code to prompt said user to enter an user account identifier, password, storage period and currency to be stored upon determining there is no account identifier associated with said security code;

15 code to receive said user account identifier, password, storage period and currency as inputted by said user;

code to determine said user account identifier and password for uniqueness against other stored user account identifiers and passwords;

20

code to calculate stored value;

code to output the stored value to said user;

25 code to add said account identifier and password into database linked with the stored value upon determining said user account identifier, password combination is unique and the stored value is acceptable to said user;

code to link the stored value to said existing user account identifier and password in the database upon determining said user account identifier, password combination is not unique and stored value is acceptable to said user; and

5 whereby upon completion of storing and linking said prepaid card is valueless.

36. The system of claim 35 wherein code to calculate the stored value is based at least in part on the formula below;

10  $\text{Stored value} = B * D * L * C * R$

Where B is face value of the prepaid card or floating balance whichever is less, D is a factor related to storage period, L is a factor related to value and loyalty of customer that is based on his/her past purchases of pre-paid cards, C is a factor related to cost of money  
15 and R is a factor related to flexibility in currency stored.

38. The system according to Claim 34 whereby said payer is unknown to said host server.

20 39. Computer executable software code stored on a computer readable storage medium, said codes when executed causing a host server having a database to transfer stored funds between users in any currencies over a network under payer's control comprising :

code to prompt payer to input payer's account identifier and password;

25

code to authenticate the payer's account identifier and password for validity;

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code to prompt the payer to input payee's account identifier and fund transfer information;

code to receiving said payee's account identifier and said fund transfer information;

5

code to authenticate the payee's account identifier and upon authentication, instantly crediting the fund to the payee's account upon determining balance in the database associated with the payer account identifier and password is more than the fund for transfer;

10

code to instantly debiting the balance associated with the payer's account identifier and password in the database with said fund transferred to said payee's account;

whereby said stored fund is deposited from a prepaid card into an account linked to an user created identifier; and

15

whereby said transfer is made without interacting with said payee and independently of said prepaid card.

20 40. According to Claim 39 wherein said software code further comprising :

code to prompt user to enter security code associated with the prepaid card;

code to receive the security code;

25

code to determine the security code is valid;

code to determine any account identifier is associated with the security code;

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code to prompt said user to enter an user account identifier, password, storage period and currency to be stored upon determining there is no account identifier associated with said security code;

5

code to receive said user account identifier, password, storage period and currency as inputted by said user;

code to determine said user account identifier and password for uniqueness against other stored user account identifiers and passwords;

10

code to calculate stored value;

code to output the stored value to said user;

15

code to add said account identifier and password into database linked with the stored value upon determining said user account identifier, password combination is unique and the stored value is acceptable to said user;

code to link the stored value to said existing user account identifier and password in the database upon determining said user account identifier, password combination is not unique and stored value is acceptable to said user; and

20

whereby upon completion of storing and linking said prepaid card is valueless.

25

41. According to Claim 40 wherein said code to calculate the stored value is based at least in part on the formula below;

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Stored value =  $B * D * L * C * R$

Where B is face value of the prepaid card or floating balance whichever is less, D is a factor related to storage period, L is a factor related to value and loyalty of customer that  
5 is based on his/her past purchases of pre-paid cards, C is a factor related to cost of money and R is a factor related to flexibility in currency stored.

43. According to Claim 39 whereby said payer is unknown to said host server.

10

44. The method of Claim 13 includes providing at least one point of sale terminal adapted to issue by printing a receipt representative of the prepaid card having at least a serial number .

15 45. The system of Claim 34 includes at least one point of sale terminal adapted to issue by printing a receipt representative of the prepaid card having at least a serial number .

46. According to Claim 39 wherein said software code further comprising :

20 code to enable at least one point of sale terminal to be connected to said host server to issue by printing a receipt representative of the prepaid card having at least a serial number.

48. A computer based method for person to person instantaneous fund transfer, the  
25 method comprising :

providing a host server having a database to transfer stored funds;

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using said stored funds in payer's account for transfer to payee whereby said account having a payer created identifier being different from source of funds;

submitting said identifier for verification prior to a transfer and said transfer is

5 instantaneously without interacting with said source of funds and said payee;

whereby said stored funds is deposited without using said payer's bank account; and

whereby said payer and said payee are two different persons.

10

49. A system for person to person instantaneous fund transfer, the system comprising :

a host server having a database to transfer stored funds , wherein said server having a processor to execute program codes stored in a computer storage medium; and

15 wherein the program codes, further comprises:

code to transfer said stored funds in payer's account to payee whereby said account having a payer created identifier being different to source of funds;

20 code to submit said identifier for verification prior to transfer and said transfer is instantaneously without interacting with said source of funds and said payee;

whereby said stored funds is deposited without using said payer's bank account; and

25 whereby said payer and said payee are two different persons.

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50. The method according to Claim 13 whereby said prepaid card is a cash card .

51. According to Claim 34 whereby said prepaid card is a cash card.

5 52. According to Claim 39 whereby said prepaid card is a cash card.

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Evidence Appendix

NONE



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Related Proceedings Appendix

NONE